

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JUSTIN SHERWOOD, on behalf of)
himself and all others similarly) Case No. 1:22-CV-01495-ELR
situated,)
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Plaintiffs,)
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vs.)
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HORIZON ACTUARIAL)
SERVICES, LLC,)
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Defendant.)
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)

Plaintiffs Justin Sherwood, Lindsey Quan, Tabatha Bedont f/k/a Tabatha Johnson, Greg Torrano, Jennifer Hill, Sia Moody, Anthony Ruiz, Alice Dodd, Frederick Lewis, Douglas Ackman, Ryan Evans, Amber Thomas, and Maria Chavez (“Plaintiffs”), jointly with Defendant Horizon Actuarial Services, LLC (“Defendant”), by and through counsel of record, hereby move this Honorable Court to amend the Court-approved Settlement Agreement and Preliminary Approval Order by: A) increasing the size of the Settlement Class to include 494,003 additional Settlement Class members, bringing the revised number of Settlement Class members to 4,386,969 (from a previous Settlement Class of 3,892,966); B)

increasing the Settlement Fund pro rata for each additional Settlement Class member, bringing the revised Settlement Fund to \$8,733,446.36 (from a previous Settlement Fund of \$7,750,000); C) increasing the not-to-exceed amount of attorneys' fees (\$2,583,075) that the Court previously permitted Class Counsel to request to a revised amount (\$2,911,148.79) not to exceed one-third of the revised \$8,733,446.36 total Settlement Fund; and D) approving the redline changes to the postcard notice, the Long Form notice, and the Claim Form.

In support of this motion, the Parties state as follows:

1. On September 21, 2023, the Court entered its Order granting preliminary approval of this putative class action settlement.
2. The Preliminary Approval Order gave preliminary approval to a Settlement Class containing 3,892,966 persons, and a Settlement Fund of \$7,750,000, for an approximate \$1.99 per class Settlement Class member.
3. In the process of preparing the notice to the Class, Defendant determined that there were additional Settlement Class members and, after an extensive and careful review, identified 494,003 additional Settlement Class members.
4. To account for these additional Settlement Class members, the Parties negotiated in good faith a pro rata increase of the Settlement Fund for the additional

Settlement Class members. This resulted in a revised and increased total Settlement Fund of \$8,733,446.36.

5. The revised total Settlement Fund of \$8,733,446.36 for the revised 4,386,969 Settlement Class members is, once again, approximately \$1.99 per Settlement Class member.

6. This amount is fair and reasonable for the very same reasons that \$1.99 per Settlement Class member for the currently approved Settlement Class is fair and reasonable, as set forth in Plaintiffs' Unopposed Motion for Preliminary Approval. (ECF Doc. 70).

7. Attached to this Joint Motion as Exhibits A, B, and C are jointly approved redline versions of the Short (Postcard) Notice, the Long Form Notice, and the Claims Form. To summarize the redline changes, these changes:

- a. Increase the Settlement Class size where appropriate;
- b. Increase the amount of the Settlement Fund, where appropriate;
- c. Increase the not-to-exceed amount of attorneys' fees, where appropriate, and;
- d. Change the various deadlines to reflect the new deadlines in the Court's Order amending the preliminary approval order. (ECF Doc. 74).

8. The Parties further wish to advise the Court that, to meet the current notice deadline of November 22, 2023, an Order on this motion would need to be entered as soon as practicable. This is simply a logistics issue – the millions of postcard notices cannot be printed until the numbers and dates are finalized, and a print run of millions of notices takes a certain amount of time. This is not to suggest that the Court should rush its consideration of this motion, and the important issues raised herein, but merely to advise the Court that if extended proceedings relating to these important issues (including, if necessary, more extensive briefing and a hearing) are needed, the Parties will need to return to the Court for a further extension of the currently established notice, claims period, and final approval deadlines.

WHEREFORE, the Parties jointly and respectfully request that the Court grant this Motion, amend the Settlement Agreement to preliminarily approve a Settlement Class of 4,386,969 persons who fall within the Class Definition, increase the Settlement Fund to \$8,733,446.36 (thereby maintaining approximately \$1.99 pro rata for each Settlement Class member), increase the not-to-exceed amount of attorneys' fees to \$2,911,148.79, and approve the redline changes to the postcard notice, the Long Form notice, and the Claim Form.

Dated: November 8, 2023

Respectfully submitted,

/s/ Gary M. Klinger

Gary M. Klinger (admitted *pro hac vice*)

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D), I hereby certify that the foregoing has been prepared in Times New Roman 14 point, one of the fonts and points approved by the Court in LR 5.1(C), with a top margin of not less than 1.5 inches and a left margin of not less than 1 inch.

/s/ Gary M. Klinger

CERTIFICATE OF SERVICE

I certify that on November 8, 2023, I filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to all counsel of record.

/s/ Gary M. Klinger
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